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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,820	02/16/2000	NOBUHITO UEDA	Q057694	2221

7590 10/29/2004

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/485,820	Applicant(s) UEDA ET AL.	
	Examiner Neil Levy	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,11,12 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,11,12 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT.Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7, 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the weight is of the solid formulation, each granule or the envelope and solid together; please import from the specification the weight basis.

Claims 1, 7, 8, 11, 12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy - 5698210.

The rejection of record is maintained. Nowhere in the claim is there a requirement for complete encapsulation of a pesticide. Levy provides water dispersible granules and water-soluble formulations, with inclusion of the applicants claimed. The solid pesticidal formulation is shown by Levy, as there is no requirement of intimate contact of the solid by an enveloping alcoholic compound constituting part of the granule or powder. See Fig. 1, col. 5; A PVA pouch.

Claims 1, 3-5, 7, 8, 11, 12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Homma et al EP 0579951.

P. 3, lines 1-5, 25-27 show instant OH compounds @ .1-10% of solid pesticides (line 8-10, p.3), coated with PVA (line 19, p. 4).

Claims 1, 3, 5, 7, 8, 11 and 12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al 5639465 in view of Surgant 4,544,693.

The rejection of record is maintained, as we can find aerial application over a rice paddy to constitute throwing the composition – Surgant permits of this type of application, also.

Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive. Applicant's arguments are repeat of those of 6/5/03, in essence, and are still found wanting, because: as claimed, an enveloped formulation – thus, a bag, an envelope – that is water soluble – specifically PVA in claim 12, contains a formulation of solids; powders, granules and any other water soluble forms. These granules, powders must include one or more OH compounds. Levy has that, Huang has the formulation, as shown by claims 1-13, while Surgant puts agricultural formulation in PVA bags, the instant envelope, to resist atmospheric conditions, low temperature, exposure to applicator and can envelope any age formulation (summary of surgant), thus, inclusive of Homma, Hung, Ogawa (supplied by applicant) etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gray Kunz can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Levy/LR
October 18, 2004



NEIL S. LEVY
PRIMARY EXAMINER